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ABSTRACT

This document details the changes that have occurred in the 95th Congress with respect to compensatory education and explores the implications of those changes with respect to Federal policy for compensatory education programs. The 93rd Congressional hearings on Title I of the Elementary and Secondary Education Act are reviewed. Also described are a study conducted by the National Institute of Education on compensatory education and anotner study administered by the Office of Education designed to determine the socioeconomic status of those receiving Title I services. The studies' findings, which highlighted problems in the distribution of services and funds, are summarized, and the effects that such data have had on the legislation passed by the 95th Congress, including major amendments to Title I, are then described. Appended to the document are Part B of the Educational Amendments of 1974, dealing with educational studies and surveys, and an overview of H.R. 10891, a bill written to reorganize and amend Title I. (GC)

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WHAT DO WE KNOW ABOUT TEACHING AND LEARNING IN URBAN SCHOOLS?

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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Volume 1

Compensatory Education: A Congressional Perspective

Christopher T. Cross
U.S. House of Representatives

Paper prepared for the National Conference on Urban Education, held in St. Louis, Missouri, July 10-14, 1978.
Conducted by the Urban Education Program, CEMREL, Inc., with support from the National Institute of Education.

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Foreword

This monograph is one of a series of papers on the issues of instruction and learning in urban schools that were presented at a conference held July 10-14, 1978, in St. Louis, Missouri, sponsored by the Urban Education Program, CEMREL, Inc., and supported by the National Institute of Education. It is our hope that both the conference and the series of fourteen monographs that resulted from it will assist educational researchers and school practitioners in identifying and analyzing instructional and learning problems in urban school settings, and will contribute to the development of strategies for the improvement of schooling for students.

Titled "What Do We Know About Teaching and Learning in Urban Schools?", the 1978 conference focused on an examination of research findings on the teaching-learning process in areas most germaine to and under control of the schools. The key problems to which the papers are addressed are the assessment of learning outcomes and the analysis of the relationships between instructional and other inputs and learning outcomes. Important contextual issues not under the full control of schools, such as community and parental involvement and the impact of federal and state governments in improving educational opportunities, were addressed at the conference as well.

The conference was conceived, in part, as an initial step in the development of a state-of-the-art review of the most critical issues faced by educators in urban schools who struggle with the morass of general educational problems, exacerbated by decreasing public confidence in large city schools, declining student enrollment, and increasing numbers of poor and minority students. While the conference does not exhaust discussion of the problems

that are particularly significant in the urban school setting, it forms a convenient focus for viewing the larger issues affecting education in our cities.

The educational innovation and change growing out of more than ten years of effort since the passage of the Elementary and Secondary Education Act of 1965 -- the primary stimulus for federal support of research and development in education -- has had the least impact on the student populations typical of the urban school setting. With this concern as a primary consideration, ten months prior to convening the conference, CEMREL's Urban Education Program had begun work with a network of twenty big-city school districts and state departments of education in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Tennessee, and Wisconsin. Thus, the conference and the research findings of national authorities was undertaken to lay a foundation for future work in urban educational research and development and to undergird present efforts at improvement of schools in the region.

The Conference Design

To guide the development of the presenters' preparation of their papers, topical questions were prepared for them by Urban Education Program Staff and a paper format was recommended. Each presenter prepared a full paper based on the topical questions and results were summarized by the writers during general sessions of the conference. Because of a wide range of perspectives held on the conference issues, discussions precipitated by reactor panels composed of other prominent researchers, practitioners, and community leaders in education followed each general conference session. More than one hundred educational researchers and practitioners from across the country attended the conference. The invited participants came from school districts and state departments of education from nineteen states; thirteen institutions of higher education; four federal agencies; numerous educational laboratories and research and development centers; and seven social service agencies.

The conference was divided into two types of sessions: general sessions, wherein the nationally recognized speakers who wrote papers presented their summaries; and forum sessions, wherein reactors helped analyze the presentations and examine the concrete recommendations put forth by the general-session speakers. All participants were encouraged to present questions and reactions during these forum sessions.

Francis S. Chase, Director of Urban Education Studies, Dallas, Texas, gave the keynote address at the opening session of the conference, a banquet on Monday evening, July 10. His topic, "Promising Developments in Urban Education," summarized field studies that he was conducting under sponsorship of the Council of Great Cities Schools and the University Council for Educational Administration under a grant from the Spencer Foundation. Chase is Professor Emeritus of the University of Chicago, where he also served as Chairman and Dean of Education for ten years.

The Conference Topics

Each of the presenters had been asked to design a paper by responding to salient topical questions, drawn up by CEMREL's Urban Education Staff. The questions that were posed originally for each of the writers are presented below. Most of the resulting papers were developed into monographs for this series.

Compensatory Education: A Congressional Perspective Christopher T. Cross Minority Staff Director Committee on Education and Labor U.S. House of Representatives.	What is the current state of the evidence concerning projected changes in legislative mandates, and what may we expect related to changes in policy governing federally funded compensatory education programs?

Effective Teacher-Support Systems to Improve Instructional Conditions in Schools Joseph D. Liggins Assistant Superintendent for Staff Development Houston Independent School District	What teacher support systems are most effective in improving instructional conditions for students? What is the role of in-service training, and what types of in-service training can be recommended to urban educators? What other resources--such as additional curricular materials, support from teacher aides and volunteers, time re-allocations, team teaching arrangements, etc.--can be demonstrated to be effective in improving students' learning opportunities? What is the state of the evidence?
Assessment That Respects Complexity in Individuals and Programs Judah L. Schwartz Professor of Engineering, Science and Education Massachusetts Institute of Technology	How can we best measure and analyze the effects of instruction on students' learning in the major school subjects: What are the most appropriate times and strategies for measuring the effects of schooling on student learning? What do we learn from means of assessment other than standardized achievement testing? When and under what circumstances is it most appropriate to use alternative or complementary strategies for assessing program effectiveness?
Achievement Tests in Urban Schools: New Numbers Eva Baker Director Center for the Study of Evaluation University of California, Los Angeles	How can we best measure and analyze the effects of instruction on students' learning in the major school subjects? What are the most appropriate times to measure the effects of schooling on student learning? What are the cautions which should be taken into account before any attempt to evaluate the effectiveness of programs primarily on the basis on standardized achievement data, especially when the number of individual implementations is large and the actual conditions under which the implementations took place are not well documented?
Summer Drop-off and The Effectiveness of Compensatory Instruction Paul T. Hill The Rand Corporation	What has the era of compensatory education program development contributed to knowledge about achievement in the basic school subjects in urban schools? Where is the evidence? What, if anything, does the evidence indicate about methods for improving basic skills achievement? What, if any, recommendations can be made to school district planners on the basis of existing evidence?

Instructional Ingredients for the Development of Beginning Reading Competence Isabel Beck Co-Director Learning Research and Development Center University of Pittsburgh	Much research, program development, and implementation of efforts to improve achievement in basic school subjects has been concentrated in the area of reading. What approaches to instruction in reading have been successful in increasing achievement? Is there evidence that certain approaches are best suited to the needs of particular populations? Do these effects generalize to other areas of school learning, such as mathematics, social studies, and science?
A Discussion of The Literature and Issues Related to Effective Schooling Ronald Edmonds Director Center for Urban Studies Graduate School of Education Harvard University	Are there schools that have demonstrated a higher degree of effectiveness in the delivery of instruction in the basic school subjects than others serving similar student populations (in terms of socioeconomic backgrounds, family characteristics, minority populations, etc.)? What characteristics distinguish these schools from less successful schools in similar situations? What is the evidence that the explanatory characteristics have been correctly identified, and how strong is that evidence?
The Educational Promise of Cultural Pluralism Vera John-Steiner and Larry Smith Department of Educational Foundations College of Education The University of New Mexico	How can we approach problems of teaching and learning in urban schools so that the racial and cultural diversity of the school population is recognized, respected, and utilized constructively, to the extent possible? How do we differentiate between basic academic skills, which all students need to acquire for successful participation in our hetergeneous society, and curriculum decisions which can and should be tailored to the needs and interests of different sub-cultural groups? Do students benefit from participation in racially and culturally hetero-geneous classrooms, or perhaps from certain kinds of heterogeneous instructional settings but not others? What is known about these issues, and how much consensus is there about the cultural values on which schooling must be based?

New Perspectives on School District Research and Evaluation Catherine Lyon Center for the Study of Evaluation University of California, Los Angeles	What is the role of research and development processes in improvement of instruction and learning in basic school subjects in large urban systems? In what form are these processes being applied to the teaching and learning process in urban schools? What is the evidence and how solid are the indications that use of these proceses has resulted in improved student achievement?
Effective Teaching and Learning in Urban Schools Jane A. Stallings and Shirley W. Hentzell Stanford Research Institute	Looking specifically at the interaction of student, teacher, curricular and school organization characteristics, what instructional conditions encourage achievement in basic school subjects? What evidence is there, and how good is it? How are the effects of instructional conditions on student achievement measured? On the basis of existing evidence and trends, what recommendations can be made for improving students' instructional environments?
Mathematics and The Urban Child MariTynn Suydam Center for Science, Mathematics, and Environmental Education The Ohio State University	Mathematics is a school subject which is generally considered basic, insofar as mathematical skills are required for successful adult functioning in our complex society. What evidence is there to indicate which approaches to instruction in mathematics have been successful in increasing achievement? Is there evidence that certain approaches are best suited to the needs of particular populations? Do these effects generalize to other areas of school learning, such as reading, social studies, and science?
Basic Skills in Urban Schools: A View From The Bilingual Classroom Concepcion Valadez Graduate School of Education University of California, Los Angeles	Since the second largest minority population served by many urban school districts is a bilingual population, what is the current state of the evidence about the effects of programs developed especially for bilingual students? What, if anything, does the evidence indicate about the effects of such programs on basic skills achievement?

School-Community Relations and The Urban School Dean Bowles Director Home-School-Community Project Wisconsin Research and Development Center for Cognitive Learning	What do we know or what can we learn about the influence of parental and community involvement in schooling on student achievement? How does parental and community involvement affect the teaching-learning process? If information is not available to answer these questions on even a tentative basis, what types of research are recommended to study this aspect of students' lives more effectively?
Frank Sobol Basic Skills Group National Institute of Education	Are there research and development products which have contributed to improved instruction and increased student achievement in basic school subjects in large urban school systems? What is the evident and how solid are the indications that use of these products has resulted in improved student achivement?
A Summary of The Conference Findings Edmund W. Gordon Director Institute for Urban and Minority Education Teachers College Columbia University	In light of the evidence produced by examination of these issues, what concrete recommendations can be made to school districts concerning the improvement of instruction and learning in basic school subjects? In light of the same evidence, what research and development agenda should be the focus of future study and program development?
Dr. Francis S. Chase, Director of Urban Education Dallas, Texas	Keynote Speaker for Conference Banquet: "Promising Developments in Urban Education"

--Harriet Doss Willis
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Compensatory Education: A Congressional Perspective

Christopher T. Cross
U.S. House of Representatives

My intention in this paper is to detail what changes have occurred in the 95th Congress with respect to compensatory education and what those changes are likely to mean with respect to federal policy for compensatory education programs. It is probably best to present this information chronologically, insofar as possible. To do so, we must return to the 93rd Congress and the Congressional hearings on Title I and determine the results of those hearings.

I. THE 1973 ESEA HEARINGS

When Chairman Perkins began hearings on H.R. 69--which eventually became P.L. 93-380--on January 31, 1973, Title I was nearly 8 years old, and more than $12 billion had been appropriated for compensatory programs. It was also during this period that a great deal of questioning began regarding the many "Great Society" programs initiated by former President Johnson in the

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mid-1960s. The times had changed and people at all levels of government were beginning to ask, What have we accomplished?

It was, therefore, to be expected that questions about the accomplishments of the program would be asked during those 1973 hearings. Regrettably--or perhaps amazingly--committee members and staff soon discovered that there really was no information available that evaluated and described the Title I program. A few states and districts had some evaluation information; a few people had visited Title I programs and could describe what they had seen in those few programs. No one, anywhere, could tell the Congress how Title I services were delivered, how dollars were really allocated, what effect Title I was having on participating children, what the characteristics were of children receiving services, and what children were not receiving services.

The sense of frustration about lack of information grew to such a point during 1973 and 1974 that the Congress finally mandated a comprehensive review and study of compensatory education programs. The absence of good information on Title I also increased the length and decible level of the debate on the Title I formula. Since sufficient information did not exist on many of the substantive issues that were of interest to members, the availability of the 1970 census data, combined with a vacuum on program issues, shifted the focus of virtually the entire debate to the allocation of Title I funds.

That vacuum--and the frustration that surrounded it--led to the adoption of sections 821, 822, and 823 and an amendment to section 417 of the General Education Provisions Act. (Copies of each of these amendments are attached in Appendix 1.) Each of these provisions was generated by the specific failure of the Office of Education and/or the Census Bureau officials to provide requested data.

Of these four provisions, the two most significant are section 821 and the amendment to the General Education Provisions Act (GEPA), dealing with the commissioner's annual evaluation report.

II. THE NIE COMPENSATORY EDUCATION STUDY

Section 821 was specifically designed to provide information and data on the following:

1. Have compensatory education programs been successful?
2. How are Title I programs coordinated?
3. What are the characteristics of Title I teachers?
4. How are federal and state compensatory programs related? Do they complement or conflict with one another?
5. What means have been used to identify children who have the greatest need for Title I?
6. What evidence is there of the effectiveness of individualized plans?
7. What alternative methods exist for allocating Title I funds?

What was most remarkable about this study, which was intentionally assigned to the infant National Institute of Education, was that the value of Congress was assured by: (1) requiring that the study plan be submitted to Congress within 90 days; (2) preventing any review of the plan by administration officials outside of the Institute; and (3) providing for automatic funding of the 3-year effort without worrying about annual appropriations, by providing that the $5 million required for each of the 3 years would come "off the top" of Title I funding.

The importance of each of these three factors, individually and collectively, cannot be exaggerated. By requiring that the study plan be submitted to Congress within 90 days, the study was guaranteed a quick start and tacit Congressional approval for what would be studied and how. This meant that it became very difficult for Congress to ignore a study that it had mandated and whose contents and methodology were known and accepted.

Secondly, by prohibiting outside review and comment prior to delivery to the Congress of the various reports, a degree of internal autonomy was created that insulated the study from the upheavals at NIE and the political changes that took place in the Administration. In essence, Congress had written into the study a mechanism that guaranteed that, unlike most others, this study would not be a political document--no matter how much anyone at HEW wanted it to be. The client for the study became the Congress; relations between the study staff and the Hill were direct and not complicated by clearances and chaperones.

Thirdly, by taking $5 million each year directly from the Title I appropriation, the study was assured of stability and was again insulated from the traumas affecting the host body, NIE. The $5 million did not even appear in NIE's formal budget but was a transfer from the one-half of 1% allocated to OE for evaluation in connection with section 151. During one of those years, NIE was at least temporarily faced with extinction when the Senate zero-funded the Institute. That nightmarish action had almost no effect on the momentum or morale of the compensatory education study staff.

Finally, in addition to these three factors, two other items--one in the legislation, the other not--propelled the study forward. The first was that section 821 established an interim report to be delivered Sepember 30, 1976. The fact of that interim report forced the team to jell, put them through the most useful exercise of producing a document, and made interested people throughout the country very aware of the study. In a fashion, it served as the "preview of coming attractions" used so effectively by motion picture theatres to secure our attendance.

Lastly, and in my view of greatest importance, was the study staff. While still in the talking stages, NIE had the foresight to delegate to Dr. Paul Hill responsibility for the study. Dr. Hill's professionalism and interpersonal skills combined to instill in everyone a sense of trust and

respect that carried the day. Dr. Hill also had the good fortune to attract to the staff a talented deputy, Iris Rotberg, and a dozen top-flight researchers and writers.

All in all, the NIE Compensatory Education Study can be viewed as one of the best social-science policy studies ever undertaken, and rivals or exceeds the Coleman study in terms of data and usefulness.

III. THE PARTICIPATION STUDY

The second of the major studies to come from the '74 Act was placed in the hands of the U.S. Commissioner of Education. The requirement here was, as has been noted, deceptively simple: Simply tell the Congress who does and who does not get Title I services and relate that to the economic status of the family and the academic performance of the child.

Although it took OE nearly 3 years to get even the first tentative results from that study, the wait was well worth it. More about those results later. At this point, suffice it to say that the results of that study were so "hot" that it took HEW more than 7 months to release them officially, after Congressional staff had been given an informal briefing on the figures. And when finally released by HEW, the relevant figures were so buried that it would have taken a mining engineer to find them.

(The other two major studies mandated in the 1974 Act led to the Survey of Income and Education, and mandated a study of the measure of poverty. The latter study was of almost no importance or impact.)

IV. THE NIE FINDINGS

Before proceeding further, it might be helpful to summarize some of the major findings of the NIE Compensatory Education Study and of the participation study carried out by Decima Research Corporation under OE

direction. The NIE study was actually released as a series of seven reports. An eighth report was released in September of 1979 and dealt primarily with summary data from the 13 school districts involved in the demonstration study on alternative allocations of Title I funds.

The Interim Report

The first, or interim report, was released December 30, 1976 (Note 1), and revealed the following:

The Scope of Compensatory Education

- During Fiscal Year 1976, Title I represented about 3% of total elementary and secondary expenditures. State compensatory programs contributed 1%.
- Ninety percent of all districts receive Title I funds, as do 90% of eligible schools.
- Fifty-seven percent of children identified as eligible by the schools receive services--that amounts to 5.9 million children in grades K through 8, almost 20% of all public-school children.
- Only 5% of nonpublic school children in grades K through 8 receive Title I services.
- In 1975-76, of all public elementary teachers, 9.5% (111,087) were involved in some way in providing compensatory education services.
- Of all teachers' aides in Title I districts, 54% are paid with Title I funds.

The Range of Services

- On the average, 76% of Title I funds is spent on instructional services. Of that amount, 53% is spent on reading; 19% is spent on mathematics; and 10% on language arts.

- Of Title I districts, 65% use funds for reading, 45% for mathematics, 38% for preschool/kindergarten readiness programs, 30% for language arts, 28% for resource centers, 21% for libraries, and 20% for medical and dental services. (Most districts used funds for several purposes.)

The Characteristics of Compensatory Programs

- Eighty-five percent of compensatory reading students, 66% of math students, and 63% of language arts students receive instruction outside of the regular classroom.
- The average size of a compensatory reading class is 9; for language arts and math, it is 14.
- The amount of time spent in compensatory education classes is about 4 hours per week for reading and language arts, and about 3 hours for mathematics.

Title I Services

In the summer of 1977 the second report on services, titled "Compensatory Education Services" (Note 2), was released. Drawing on a sample of 100 districts which was used for the December 30 report, the second report added the following information on Title I services:

- Less than 1% of secondary school students receive Title I services.
- Only 43% of the Title I districts that contain private schools provide Title I services to nonpublic schoolchildren.
- Districts use a variety of methods to identify students to receive services. Achievement tests are used as are teacher's judgments and family's income. (Note: The use of family's income to identify children who will receive services is illegal.)
- Of teachers who deliver compensatory services, 67% have graduate training, and 62% teach a single subject.

- Individualized instruction is often claimed but seldom available in all respects.
- Twenty-four percent of compensatory education students receive all of their instruction in groups composed entirely of compensatory education students.
- Parent-involvement activities account for the greatest proportion of ancillary services spending.

Title I Administration

In September of 1977, five reports were released. The first of these, Administration of Programs (Note 3), dealt essentially with the framework and the rules of the federal and state governments. The findings:

- The regulations and law, although generally consistent, are written in such a way that state and local officials' understanding of the legal framework is often impaired.
- OE is not consistent in interpreting requirements. In addition, the level of OE monitoring and enforcement is declining.
- States are often confused about their roles in administering Title I; consequently, states have developed administrative styles which differ widely from state to state.

Student Development

The report on the student development (Note 4) was one of four which was released on September 30 of 1977. For many, this report was the most heartening because it dealt with the question of whether or not Title I has been effective. The results:

- First graders in the NIE sample made average gains of 12 months in reading and 11 months in mathematics in a 7-month period.
- Third graders gained 8 months in reading and 12 months in math in a 7-month period.

- Students in regular classroom settings gained more than students in "pullout programs" at both the first and third grade levels.
- Individualized programs did not contribute to substantially higher gains.

Funds Allocation

The second of the September 30 reports dealt with the formula for Title I funds allocation (Note 5). This report and the final two all deal with some aspect of getting dollars to children. According to NIE:

- Ninety percent of the children counted in the current formula are from poor families as determined by the Orshansky index.
- Large central cities, rural areas, and the South receive the largest portions of Title I funds. Southern counties, because of very high concentrations of poor children, receive more money than do other regions for each school-aged child.
- Reflective of per pupil expenditures, urban and Northeast counties receive the most dollars per formula child.
- Census, AFDC, and school-lunch data are most commonly used to determine school eligibility.
- Because districts usually use more than one data source to determine school eligibility, nearly 15% of the schools eligible under one criterion are not eligible under the other criterion.
- Over 80% of districts report serving all eligible schools resulting in 62% of all schools in Title I district receiving Title I resources.
- Although about half of all districts allocate dollars to schools based on the number of low-achieving children, other measures are also used, including the number of poor children.
- Title I is more effective in redistributing dollars to low-wealth districts than most state aid or other federal aid programs.
- At the local level, nearly two-thirds of every Title I dollar is spent on additional educational programs.

The report on the 13 (Note 6) Title I demonstration districts (Note 7) presented conclusive evidence that a change to educational need for the allocation of funds within a school district is neither disruptive nor counterproductive to the goal of providing compensatory education.

- The number of low-achieving students receiving services increased 4% in the 13 demonstration districts.
- The actual numbers of low-income and minority children receiving Title I services increased.
- Although the actual amount of instructional time per student decreased slightly, there was no evidence that participating students were performing below previous average gains.

Need-Based Allocation

Finally, in the last of the six 1977 reports (Note 8), NIE reported on the results of studies done to determine the effects of allocating Title I funds on the basis of student need. Although the report did conclude that the mechanism to allocate funds interstate on that basis was not in place, 22 states have in place data for intrastate allocation of Title I funds based on education deprivation. This report also shows that:

- Under a distribution based on educational deprivation, the major gains in most states would occur in central cities. In most states, districts with high concentrations of blacks and Spanish surnamed students will also gain.
- If allocation between states were based on achievement, the Northeast would lose slightly, the West would gain slightly, the South would lose significantly, and the Central region would gain significantly.
- The total cost for a 3-year project to produce state-level achievement allocation data would be less than $7.5 million--less than the amount spent each year on Title I evaluation at the federal level. The cost for data to the District level would be $53 million for 3 years.

V. PARTICIPATION STUDY DATA

The Title I participation study mandated in section 417 of GEPA produced perhaps the most thought-provoking data on Title I. The statistics came from an evaluation contract awarded by USOE to the System Development Corporation (SDC). SDC then awarded a subcontract to the Decima Research Corporation of Arlington, Virginia, and Santa Ana, California. The larger contract covers the question of whether the effects of Title I programs can be sustained over a period of time.

The Decima study is based on a 1977 survey of 17,366 students in 242 schools in 219 school districts in 44 states. The sample closely approximates income levels in the 1974 current population survey and can therefore be assured to be a fair cross-section of income categories. The sample also is very similar in racial composition to the OCR Directory Universe Projections. (In fact, it over-represents Indians, Asian-Americans, and Hispanics.)

Researchers interviewed families to obtain income figures and checked school records to determine enrollment status and achievement levels and to determine whether or not the student was enrolled in a compensatory education program. Of the students selected for the sample, household interviews were completed with 89.5%.

Achievement levels were determined by scores attained in the reading and math areas of the Comprehensive Tests of Basic Skills. The sample covers children in Grades 2 to 6 since that is where most of the compensatory programs are provided. The results of the study are very revealing:

- Twenty-three and five-tenths percent of the sample children are low achievers. (Low achievement is classified as one or more years below grade level. However, even if the determining factor is the lowest quartile or lowest third, the results are not much different.)

- Twenty-four and six-tenths percent of the children receive some form of compensatory education--15.3% in Title I supported programs.
- Poor children (those below the Orshansky poverty index) account for 33% of the low achievers.
- Forty-three and five-tenths percent of children from poor families are low achievers while 19% of those from non-poor families achieve one or more years below grade level.
- Of all Title I participants in Grades 2 to 6, only 23.3% are both poor and low achieving, while 35% are non-poor and regular achievers.
- Of all poor children who score above the 90th percentile, 10.5% are enrolled in Title I programs.
- Of all Title I participants, 52% are now low achieving.

The impact of this wealth of data and information on the Congress was long-lasting and significant. Because the various reports were released over a period of several months, it is impossible to see or to judge the impact of the reports at a single point in time. Rather, the reports that were published by NIE and the data available from Decima permeated the hearings throughout 1977 and early 1978.

For example, following the 1977 Labor Day recess, the House Subcommittee began 6 weeks of hearings on Title I. They were all structured around the NIE reports and NIE witnesses--either staff or contractors--were generally the lead-off witnesses for each set of hearings.

The Decima data first became available at an advisory committee meeting on the SDC contract held August 31, 1977, in Santa Monica, California, and was formally presented to Congressional staff at a briefing on September 9. That data became a regular part of the House hearings as witness after witness was asked to comment on the findings by Rep. Al Quie (R.-Minn.), the ranking minority member of the committee and subcommittee. The following exchange is illustrative:

Mr. Quie: Before I go into my questions, I would like to just run through a few statistics we can keep in mind. I wish I had them on a chart so we could look at them because I think the four of you have provided some outstanding testimony this morning.

There is a study that O.E. commissioned, and from their information they indicate that of the total population of the school children, 76.5 percent are regular achievers and 23.5 percent are underachievers. And then they indicate that 24.5 percent of all the schoolchildren receive some form of compensatory education, and you would think then, if there are 23.5 percent underachievers of the total, and 24.6 of all the students receive some kind of compensatory education, we are taking care of the need, but let me go through some other figures that they have.

They indicate that 31.5 percent of the poor receive some kind of compensatory education, and 43.5 percent of the poor are low achievers. So there you can see that we aren't taking care of all poor who are low achievers. Of the total number 19 percent of the total non-poor receiving some kind of aid are low achievers. Then when we look at the total number of students, 7.7 percent are poor and low achievers and 15.7 percent are non-poor and low achievers. So, just rounding it off, 33 percent of the low achievers are poor, and 67 percent are non-poor.

So when we look at achievement in bringing all the students up to the level that they ought to be ,if we address ourselves only to poor students, we are only talking about 33 percent of the low achievers, and the other 67 percent of the low achievers are non-poor . . .

Could I ask each of you, representing a chief State school officer, a union of teachers, school boards, and State legislature, how you would feel if we amended the law so that once the money comes to the school district, the district could determine who receives the compensatory education on whatever factors they work up, either income or achievement?

Dr. Riles: I certainly subscribe to the idea that more flexibility should be provided local districts because they are closer, but I think there should be some general guidelines. Now that is not to say to spell out exactly, but the intent and the guides ought to be there, and once they are there, then I think the district ought to carry it out . . .

So I have to thoroughly agree with your concept that there has to be some realistic opportunity to operate a sound program. That is what we are talking about, education of kids and not this nonsense about someone coming in--I guess I don't want to be emotional about it, but I recognize the problem.

Mr. Quie: Thank you. Dr. Shanker?

Mr. Shanker: I would say pretty much the same thing, that we would favor greater flexibility, but we know that wherever you create greater flexibility, you are creating greater discretion, and where there is discretion, there is going to be a decision-making process as to where the money goes, and we know that whenever there is such a process, there will be some conflict, and we know that in that conflict those who most need the money are frequently not the most able to do their fighting for their fair share of it.

So I think that any greater flexibility would have to be accompanied by some protective regulations that would make sure that the money ends up where it is supposed to end up.

Mr. Quie: When you talk about where it is supposed to end up, are you [saying] it ends up with the underachievers? It seems to me that there are poor underachievers, and poor achievers, and there are non-poor underachievers and non-poor achievers. You do not want it to go to non-poor achievers.

The other three, could you tell me where your priorities lie?

Mr. Shanker: My priorities would remain with the poor underachievers, because I think that they are doubly handicapped. I would say that the non-poor underachiever is more likely to get help at home and from other resources. I think as long as we do not have adequate funds and as long as we do have a target, then I would select that group of children that have that double handicap, and I think poverty in addition to underachieving would be a first priority.

Mr. Quie: What would be the second priority of the two that are left, the poor achievers and the non-poor underachievers?

Mr. Shanker: You have made your point. (Note 9)

By the time the Administration finally got around to formulating their position and translating that into a bill, the results of the NIE and Decima studies had so thoroughly shaped the nature and content of the hearings that there were not many areas left in which the Administration could have a clear shot at shaping policy.

This situation was underscored by the fact that as part of the study, NIE had contracted with the Lawyers' Committee for Civil Rights Under Law to undertake a factual analysis of the laws and regulations affecting Title I. Reaction to that set of documents (Note 10) was so positive that the chairman of the subcommittee asked that the Lawyers' Committee rewrite Title I in a format that was comprehensible and to address the inconsistencies and problems in the regulations by placing in the statute those provisions which would clarify the Act and ease its administration. In addition, the draft bill was to address those issues that prevented the articulation of Title I with state compensatory education programs and other issues related to pre-expenditures control and the clarification of existing policies. (A copy of the overview of the Lawyers' Committee bill is attached as Appendix II.)

For the layperson probably the most important breakthrough brought about by the Lawyers' Committee bill is the organization and clarity that it brings to Title I. The Act henceforth will be organized in parts and subparts. That may not sound important, but it does mean that it will now be possible to find what you are looking for in Title I quickly. Once there, it should also be possible--at long last--to understand what the law says. Under the House bill, the major organizational structure of the Act will be:

Part A - Programs Operated by Local Educational Agencies
- Subpart 1 - Basic Grants
- Subpart 2 - Special Grants
- Subpart 3 - Program Requirements and Applications
- Subpart 4 - Exemption From Certain Program Requirements

Part B - Program Operated by State Agencies
Subpart 1 - Programs for Migratory Children
Subpart 2 - Programs for Handicapped Children
Subpart 3 - Programs for Neglected and Delinquent Children
Subpart 4 - General Provisions for State-Operated Programs
Part C - State Administration of Programs and Projects Assisted Under this Title
Subpart 1 - State Applications
Subpart 2 - Duties Imposed on State Educational Agencies
Subpart 3 - Responsibilities of State Educational Agencies to Commissioner
Part D - Federal Administration of Programs and Projects Assisted Under Title I
Part E - Payments
Part F - General Provisions

The Senate bill differs somewhat from the House bill in organization, primarily by locating the state administration provision in Title V.

In addition to these organizational and clarifying changes, a number of amendments have also been included in the House bill (H.R. 15) which will have a decided impact on how the program is organized and operated at the local level. For the most part, the Senate bill (S. 1753) contains similar provisions. Where there are important differences between the House and Senate bills, those differences will be noted. Because of the nature of the Urban Education Conference, this paper will not deal with changes in federal administration except as they affect state and/or local administration. It should also be noted that many of the changes that will be described were the result of an amendment offered in either the subcommittee or full committee mark-ups and are not related to the Lawyers' Committee rewrite of the statute. Where possible, the authorship of amendments will be noted. Where the final bill, as agreed upon by the joint House-Senate conference

committee, contained different language that final agreement is also noted. The conference report on the Education Amendments of 1978 (H.R. 15) was signed into law in November, 1979, by President Carter and became P.L. 95-561.

VI. MAJOR AMENDMENTS TO TITLE I

Particularly for urban districts, the most significant amendment is the new section 21, which provides additional grants for school districts located in counties where the number of low-income children exceeds 5,000, or 20% of the population ages 5 to 17. This provision is authorized in fiscal 1979 at $400 million. The House bill contains a separate authorization for this section; the Senate bill, as reported from the committee, takes the money "off the top" of the Title I appropriations thereby guaranteeing that $400 million will go for this purpose in fiscal '79. However, this provision of the Senate bill was deleted on the Senate floor. The two bills have somewhat different mechanisms for splitting the money received at the county level when the county contains more than one school district. The Senate bill allocates dollars to districts on the same basis as those districts contributed to achieving the concentration trigger. The House bill allows the state some flexibility but would assure that all districts in a county would receive some extra dollars from section 21. Under the conference agreement, all districts in the county share in the concentration grants on a weighted basis, with children in districts with greater than 20% poor weighted as one. Children in districts with a smaller percentage are weighted so that each child in a 10% district counts as one-half, in a 5% district as one-fourth, etc. (Source: Administration bill: amendment offered by Chairman Carl Perkins [D.-Ky.])

The second major change is the inclusion of an incentive-grant provision to provide states with qualifying compensatory education programs with one dollar in federal funds for each two dollars in state aid up to a maximum

of 10% of the states' regular Title I allocation. There are no substantial differences between the House and Senate bills. (Source: Administration bill: amendment offered by Chairman Perkins)

Thirdly, the new bill will permit LEAs to submit a 3-year application to reduce paperwork. This provision is designed to reduce "ordinary" paperwork and would not excuse a receiving district from implementing any required state or federal design or arbitrary procedures that might become effective prior to the end of the 3 years. Elements are taken from both House and Senate bills. (Source: Lawyers' Committee and Perkins bill)

A number of major changes involve the designation of school-attendance areas. First, the House bill permits an LEA to rank all of its school attendance areas according to both poverty and educational deprivation and then to serve schools according to their poverty ranking unless another school has a substantially greater percentage or number of educationally deprived children, in which case the school with the greater number may be served out of order. The final bill which became law permits this dual ranking but only with the approval of the State educational agency and the district parent advisory council. (Source: Congressman Al Quie [R.-Minn.])

Secondly, both bills authorize the commissioner to promulgate regulations permitting districts to target lower-ranked eligible schools if (1) the district uses an objective measure of educational deprivation and applies it uniformly; (2) the schools skipped are considered project area schools for the purpose of demonstrating comparability; and (3) the LEA satisfies the SEA that it is complying with the section of the law and regulations. (Source: Lawyers' Committee)

Thirdly, both bills authorize the commissioner to issue regulations permitting LEAs to skip higher-ranked schools if they are receiving services comparable to those made available by Title I through a state or local

compensatory program. Concurrent with this provision is an amendment requiring comparable service to non-public schools equivalent to that which would have prevailed if the exemption were not permitted. (Source: Lawyers' Committee bill and California State Education Department offered by Congressman George Miller D-Calif. and Senator S. I. Hayakawa [R.-Calif.])

Fourth, the House bill contains an amendment designating a school with 20% or more low-income children as a Title I school. Current regulations place that figure at 30%. The conference agreement establishes the figure at 25% and requires that the use of the 25% figure is optional with the district and that no school served prior to the use of the new standard will be hurt because of this new section. (Source: Congressman Quie)

Fifth, both bills require that once an LEA chooses a low-income measure for the purpose of selecting target schools, that measure must be uniformly applied throughout that district for that year. (Source: Lawyers' Committee)

Sixth, the House and Senate bills contain a provision requiring that Title I funds be allocated among participating schools on the basis of the number of eligible children. That eligibility is determined according to educational need. (Source: Congressman Quie)

Finally, both bills eliminate the "mini-comparability" report on the handicapped in recognition of the enactment and implementation of the Education of All Handicapped Children Act. (P.L. 94-142). (Source: Lawyers' Committee bill)

With respect to children to be served in Title I programs, both bills permit children to be served in a subsequent year if they are still in need of education service but are no longer in greatest need of assistance. Also included is language permitting services to "follow the child" if, for the

remainder of a school year, the child is transferred in mid-year to a non-participating school. The same section allows a child in greatest need of assistance to be skipped if that child is receiving comparable services from a state or local program. (Source: Lawyers' Committee bill)

With respect to the design and implementation of programs, the bills contain a number of changes and clarifications. First, several changes are made in the needs assessments provisions that require the generation and use of data upon which to base child targeting decisions. On this part, the House Committee report (Report No. 95-1137, p.23-27) shall be read with care. (Source: Lawyers' Committee bill)

The House bill contains a provision requiring a school district to consider services available from other programs--particularly health, social and nutrition services--before using Title I funds for those purposes. This provision does not prevent the use of Title I funds for those services but does require the LEA to make the best use of all other services and to coordinate them with Title I. This provision was included in the final bill. (Source: Congressman Quie)

With respect to parental involvement, both bills require that parents, as well as teachers, be involved in establishing the program, setting goals, and evaluating programs. (Source: Lawyers' Committee bill)

With respect to parent advisory councils, the House bill requires that schools having fewer than one full-time equivalent Title I staff member need not have a PAC. (Source: Congressman John Buchanan [R-Ala.])

Schools with at least two full-time equivalent staff members must have PACs of at least five members (House bill; Senate--10 members), must meet four times annually, and must have terms of 1 to 3 years. PACs must also have access to all pertinent documents. The conference agreement waives the requirement for a parent advisory council if there is not more than one

full-time equivalent Title I staff person and not more than forty students participating in Title I programs. (Source: Congressman Shirley Chisholm's bill and Congressman Paul Simon [D-Ill.]) With respect to funds allocation, both the House and Senate bills contain provisions tightening the maintenance of effort language and clarifying the supplement not supplant provisions, particularly as they relate to state compensatory programs. Also included are provisions clarifying the comparability provision in current law. (Source: Congressman Quie and Lawyers' Committee bill)

Also included is language clarifying the responsibilities of LEAs to resolve complaints and to assume that private-school children more fully participate in the program. (Source: Lawyers' Committee bill and Administration bill)

With respect to state compensatory programs, both bills contain language permitting the phase-in of certain state programs and establishing certain procedures and exemptions of the coordination of state and local programs. (Source: Lawyers' Committee bill)

Also contained in the House bill is an amendment permitting the expenditure of up to 2 dollars in state compensatory funds upon educationally deprived children in non-Title I areas for every dollar spent in Title I areas. This provision was dropped in the conference committee. (Source: Congressman William Ford [D-Mich.])

For schools with especially high concentrations of low-income children, the House bill permits schools with 70% or more low-income children to use Title I funds as essentially general aid. However, certain provisions are included to insure that schools continue to pay special attention to children with the greatest need for special assistance. The Senate bill uses an 80% level for qualifications. The conferees agreed upon 75%. (Source: Administration bill and Congressman George Miller)

Problems of relations between regular school and Title I staff should be eased considerably through inclusion of an amendment permitting Title I employees to perform non-instructional duties on approximately the same basis as non-Title I personnel, provided that does not exceed 10% of such persons' total time of employment. (Source: Congressman John Buchanan)

Finally, there are a number of provisions which affect federal administration of which three are worthy of note here. The first affects evaluation. The House bill would require annual evaluation with reporting of results every 3 years. The Senate bill would require that both the actual evaluation and reporting be done every 3 years. The conference agreed that each district would report evaluation results every 3 years, according to a schedule established by the commissioner. (Source: Administration bill offered by Chairman Perkins)

The second of these federal administration issues deals with audits. Both bills contain greater specificity with respect to the audit process and would require that the commissioner establish procedures to "assure timely and appropriate resolution of audit findings." Both bills contain similar language. (Source: Lawyers' Committee bill)

The final major amendment requires the commissioner to publish a policy manual which will serve as a guide to state, local, and particularly federal personnel. This provision, which is in both the House and Senate bills, also directs that the policy manual contain at least nine sections including model forms, examples of methods for distributing funds, and summaries of relevant court decisions. (Source: Lawyers' Committee bill)

Although the '78 amendments do contain many other amendments dealing with Title I, the above at least touches upon the major changes which are likely to emerge as a result of the '78 Act. Perhaps the most important point to

remember is that within the next 12 to 24 months, Title I will undergo the most extensive changes since the establishment of the Act in 1965. The majority of these changes will be easily accommodated by those districts that have been operating the program with an eye towards the law and regulations. Other changes will impact primarily in the fiscal areas as the two new special grant provisions of Title I are funded and become effective.

REFERENCE NOTES

Note 1. Evaluating compensatory education: An interim report on the NIE compensatory education study. Washington, D.C.: December 30, 1976.

Note 2. Compensatory education services: A report from the National Institute of Education. Washington, D.C.: July, 1977

Note 3. Administration of compensatory education: A report from the National Institute of Education. Washington, D.C.: September 19, 1977.

Note 4. The effects of services on student development: A report from the National Institute of Education. Washington, D.C.: September 30, 1977.

Note 5. Title I funds allocation: The current formula, a report from the National Institute of Education. Washington, D.C.: September 30, 1977.

Note 6. The 13 districts are: Adams County, Colorado; Harrison County, West Virginia; Mesa, Arizona; Newport, Rhode Island; Racine, Wisconsin; Sante Fe, New Mexico; Charlotte, North Carolina; Winston-Salem, North Carolina; Boston, Massachusetts; Houston, Texas; Berkeley County, West Virginia; Alum Rock, California; and Yonkers, New York.

Note 7. Demonstration studies of funds allocation within districts: A report from the National Institute of Education. Washington, D.C.: September 30, 1977.

Note 8. Using achievement test scores to allocate Title I funds: A report from the National Institute of Education. Washington, D.C.: September 30, 1977.

9. Part 12: National organizations, hearings before the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, House of Representatives. Washington, D.C.: September 27, 1977.

10. An analysis of the basis for and clarity and restrictiveness of the program requirements applicable to local school district applying for grants under Title I of ESEA. Prepared by Robert Silverstein, Daniel M. Schember, et al., Lawyers' Committee for Civil Rights Under Law. Washington, D.C.: September, 1977.

APPENDIX I

Part B-EDUCATIONAL STUDIES AND SURVEYS

(from the "Education Amendments of 1974")

PROGRAMS

SEC. 821. (a) In addition to the other authorities, responsibilities and duties conferred upon the National Institute of Education (hereinafter referred to as the "Institute") by section 405 of the General Education Provisions Act and notwithstanding the second sentence of subsection (b) (1) of such section 405, the Institute shall undertake a thorough evaluation and study of compensatory education programs, including such programs conducted by States and such programs conducted under title I of the Elementary and Secondary Education Act of 1965. Such study shall include-

(1) an examination of the fundamental purposes of such programs, and the effectiveness of such programs in attaining such purposes;

(2) an analysis of means to identify accurately the children who have the greatest need for such programs, in keeping with the fundamental purposes thereof;

(3) an analysis of the effectiveness of methods and procedures for meeting the educational needs of children, including the use of individualized written educational plans for children, and programs for training the teachers of children;

(4) an exploration of alternative methods, including the use of procedures to assess educational disadvantage, for distributing funds under such programs to States, to State educational agencies, and to local educational agencies in an equitable and efficient manner, which will accurately reflect current conditions and insure that such funds reach the areas of greatest current need and are effectively used for such areas;

(5) not more than 20 experimental programs, which shall be reasonably geographically representative, to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out the purposes of clauses (1) through (4), and the

Commissioner of Education is authorized, not withstanding any provision of title I of the Elementary and Secondary Education Act of 1965, at the request of the Institue, to approve the use of grants which educational agencies are eligible to receive under such title I (in cases where the agency eligible for such grant agrees to such use) in order to carry out such experimental programs, and

(6) findings and recommendations, including recommendations for changes in such title I or for new legislation, with respect to the matters studied under clauses (1) through (5).

(b) The National Advisory Council on the Education of Disadvantaged Children shall advise the Institute with respect to the design and execution of such study. The Commissioner of Education shall obtain and transmit to the Institute such information as it shall request with respect to programs carried on under title I of the Act.

(c) The Institute shall make an interim report to the President and to the Congress not later than December 31, 1976, and shall make a final report thereto no later than nine months after the date of submission of such interim report, on the result of its study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before their transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

(d) Sums made available pursuant to section 151(i) of the Elementary and Secondary Education Act of 1965 shall be available to carry out the provisions of this section.

(e) (1) The Institute shall submit to the Congress, within one hundred and twenty days after the date of the enactment of this Act, a plan for its study to be conducted under this section. The Institute shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Institute shall not commence such study until the first day

after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress. (2) For purposes of paragraph (1)-

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

SURVEY AND STUDY FOR UPDATING NUMBER OF CHILDREN COUNTED

SEC. 822. (a) The Secretary of Commerce shall, in consultation with the Secretary of Health, Education, and Welfare, expand the current population survey (or make such other survey) in order to furnish current data for each State with respect to the total number of school-age children in each State to be counted for purposes of section 103 (c) (1) (A) of title I of the Elementary and Secondary Act of 1965. Such survey shall be made, and a report of the results of such survey shall be made jointly by the Secretary of Commerce and the Secretary of Health, Education, and Welfare to the Congress, not later than one year after the date of the enactment of this Act.

(b) The Secretary of Health, Education, and Welfare and the Secretary of Commerce shall study the feasibility of updating the number of children counted for purposes of section 103(c) of title I of the Act in school district of local educaional agencies in order to make adjustments in the amounts of the grants for which local educational agencies within a State are eligible under section 103(a) (2) of the Act, and shall report to the Congress, no later than one year after the date of enactment of this Act, the results of such study, which shall include an analysis of alternative methods for making such adjustments, together with the recommendations of the Secretary of Health, Education, and Welfare and the Secretary of Commerce with respect to which such method or methods are most promising for

such purpose together with a study of the results of the expanded population survey, authorized in subsection (a) (including analysis of its accuracy and the potential utility of data derived therfrom) for making adjustments in the amounts paid to each State under section 144(a) (1) of title I of such Act.

(c) No method of making adjustments directed to be considered pursuant to subsection (a) or subsection (b) shall be implemented unless such method shall first be enacted by the Congress.

STUDY OF THE MEASURE OF POVERTY USED UNDER TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 823. The Assistant Secretary shall supervise, with the full participation of the National Institute of Education and the National Center for Educaton Statistics, a thorough study of the manner in which the relative measure of poverty for use in the financial assistance program authorized by title I of the Elementary and Secondary Education Act of 1965 may be more accurately and currently developed. The study of the relative measure of poverty required by this subsection shall be adjusted for regional, climatic, metropolitan, urban, suburban, and rural differences and for family size and head of household differences. The study required by this section shall consider-

(A) the availability of data more current than the decennial census including data collected by any agency of the Federal Government which are relevant except that data so collected shall not disclose the name of any individual or any other information customarily held confidential by that agency, but shall include agregate information to the extent possible;

(B) the availability and usefulness of cost of living data;

(C) the availabilty and usefulness of labor market and job availability data;

(D) the availabilty and usefulness of labor market and job availability data;

(E) the availability and usefulness of data with respect to prevailing wage rates, unemployment rates, and income distribution; and

(F) the availability of data with respect to eligibilty criteria for aid to families with dependent children under a State plan approved under title IV of the Social Security Act.

(2) The Assistant Secretary is authorized and directed to prepare and submit to the Congress not later than one year after the effective date of this Act a report of the study conducted under this subsection including recommendations with respect to the availability of data designed to improve the relative measure of poverty for the program of financial assistance authorized by title I of the Elementary and Secondary Education Act of 1965. Whenever the Assistant Secretary determines that data specified in paragraph (1) of this subsection are not available or that it is impractical to obtain data for each relevant area or category, the report shall contain an explanation of the reasons therefor.

ANNUAL EVALUATION REPORTS

SEC. 417. (a) (1) Not later than November 1 of each year, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes. In the case of any evaluation report evaluating specific programs and projects, such report shall-

(A) set forth goals and specific objectives in qualitative and quantitative terms for all programs and projects assisted under the applicable program concerned and relate those goals and objectives to the purposes of such program;

(B) contain information on the progress being made during the previous fiscal year toward the achievement of such goals and objectives;

(C) describe the cost and benefits of the applicable program being evaluated during the previous fiscal year and identify which sectors of the public receive the benefits of such program and bear the costs of such program;

(D) contain plans for implementing corrective action and recommendations for new or amended legislation where warranted;

(E) contain a listing identifying the principal analyses and studies supporting the major conclusions and recommendations in the report; and

(F) be prepared in concise summary form with necessary detailed data and appendices.

(2) In the case of programs and projects assisted under title I of the Elementary and Secondary Education Act of 1965, the report under this subsection shall include a survey of how many of the children counted under section 103(c) of such Act participate in such programs and projects, and

how many of such children do not, and survey of how many educationally disadvantaged children participate in such programs and projects, and how many educationally disadvantaged children do not. For purposes of the preceding sentence, the term 'educationally disadvantaged children' refers to children who are achieving one or more years behind the achievement expected at the appropriate grade level for such children.

(b) Each evaluation report submitted pursuant to subsection (a) shall contain: (1) a brief description of each contract or grant for evaluation of any program (whether or not such contract or grant was made under section 416) any part of the performance of which occurred during the preceding year, (2) the name of the firm or individual who is to carry out the evaluation, and (3) the amount to be paid under the contract or grant.

APPENDIX II

An Overview of H.R. 10891: A Bill to Reorganize and Amend Title I of ESEA

OVERVIEW OF H.R. 10891

On February 9, 1978, Chairman Perkins of the House Education Subcommittee on Elementary, Secondary, and Vocational Education introduced H.R. 10891. The bill preserves the basic policy of the existing Title I statute specifying that Title I funds must be used to expand and improve the educational programs of educationally deprived children residing in low-income areas. The modifications to the existing statute contained in the bill are two-fold. First, the bill reorganizes the statute to achieve greater clarity. Second, the bill incorporates amendments to Title I which are based on research conducted by the Legal Stands Project of the Lawyers' Committee For Civil Rights Under Law and other contractors as part of the National Institute of Education's study of compensatory education mandated by Congress under Section 821 of the Education Amendments of 1974. Four categories of amendments are included in the bill:

1) amendments clarifying the nature and scope of the existing requirements school districts must satisfy and the functions states and the Commissioner of Education are expected to perform;

2) amendments ensuring that Title I funds are distributed systematically so as not to discriminate against those children who are in greatest need of assistance;

This material was prepared by the Lawyers' Committee for Civil Rights Under Law, The Legal Standards Project, under contract with NIE. Members of the project were Robert Silverstein, Michael Gaffney, Daniel Long, Daniel Schember, and George Skinner.

3) amendments providing additional flexibility in the statute for school districts, states, and the Commissioner to accomplish the objectives of Title I; and

4) amendments increasing the level of pre-expenditure control by states and the Commissioner so that compliance problems can be identified before they adversely affect programs.

DESCRIPTION OF THE MAJOR ASPECTS OF THE REORGANIZATION

The proposed reorganization clarifies the Title I statute, primarily by collecting scattered provisions on similar topics in a single place and labeling those topics for quicker reference. More specifically, the bill implements the following changes in the organization of the statute:

(1) The bill includes a separate part for each of the following subject areas:
   (a) programs operated by local educational agencies;
   (b) programs operated by State agencies;
   (c) state administration of Title I programs and projects;
   (d) Federal administration of Title I programs and projects;
   (e) payments, and
   (f) general provisions.

(2) The bill reorganizes the LEA program requirements into sections along functional lines and includes headings for each section and subsection. Thus, for example, all provisions pertaining the the designation of eligible areas appear under one section. Similarly, provisions ensuring that children participating in Title I programs receive their fair share of State and local funds appear in a separate section.

(3) The bill expressly prescribes the requirements State agencie administering programs for migratory children, handicapped, and neglected and delinquent children must satisfy.

(4) The bill removes "Title I" from the Impact Aid legislation and includes a section in the legislation for definitions.*

DESCRIPTIONS OF THE MAJOR SUBSTANTIVE AMENDMENTS

CLARIFICATIONS OF EXISTING POLICIES

In General

The National Institute of Education found, among other things, that the Title I statue is not sufficiently clear and comprehensive and that OE policy pronouncements fail to take into consideration the needs of the applicable audience and are not always widely disseminated. Several amendments are offered to increase clarity without modifying existing policy.

Policy Manual

The bill would require that OE develop and disseminate a policy manual to: (a) assist applicants in preparing applications, meeting applicable program requirements, and enhancing the quality of programs, (b) assist State

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*"Title I" was initially enacted as Title II of the Impact Aid legislation (P.L. 81-874). Although "Title I" has been officially redesignated "Title I of ESEA", it is still technically considered Title II of P.L. 81-874. This legal arrangement has caused confusion, especially with respect to the applicability of specific definitions because the definitions applicable only to "Title I os ESEA" are found in P.L. 81-874 and are still referred to as definitions applicable to "Title II".

educational agencies in achieving proper and efficient administration of programs, (c) assist parent advisory councils in performing their responsibilities, and (d) ensure that Federal officials uniformly interpret, apply, and enforce Title I requirements throughout the country. The manual would contain, among other things, an explanation of the purpose of each requirement and how requirements interrelate, a statement of the procedures to be followed by the Federal government respecting the proper and efficient administration of its functions, model application forms and monitoring instruments, and models describing legal program designs including specifications concerning the constitution of a "sufficient audit trail".

Although the policy manual would still be subject to the rulemaking procedures specified in the General Education Provisions Act (GEPA), the bill would amend Section 431 of GEPA so as to require OE to follow rulemaking procedures presently contained in the Administrative Procedures Act which are applicable to most other federal agencies.

Designating School Attendance Areas and Children For Participation in Title I Programs

The bill clarifies, without modifying existing policy, the manner in which LEAs are to designate eligible school attendance areas and children. First, with respect to school attendance areas, the bill prescribes a general rule and four exceptions to such rule for designating areas. In general, school districts must rank, from highest to lowest, areas in accordance with the incidence of children from low-income families. However, this amendment authorizes school districts to: (a) use enrollment data in certain schools in lieu of area residency, (b) continue eligibility for certain schools and areas for a three-year period even if they no longer satisfy the applicable eligibility requirements, (c) skip higher ranked schools where lower ranked schools have a substantially higher incidence of educational deprivation than the higher ranked schools, and (d) skip higher ranked schools receiving

services of the same nature and scope from non-Federal sources as would otherwise have been provided under Title I.

Second, with respect to children, the amendment prescribes a general rule and provides for three exceptions to this general rule. In general, school districts must designate for participation in programs children who are in greatest need of assistance. However, the amendment authorizes school districts to: (a) continue eligibility for children who are no longer in greatest need of assistance but who are still educationaly deprived, (b) continue eligibility for the remainder of the year for children who have been transferred in mid-year to ineligible areas and (c) skip greatest-need children receiving services of the same nature and scope from non-Federal sources as they would otherwise have received under Title I.

Needs Assessment and Coordination

The bill generally codifies existing OE policy respecting needs assessment and coordination. With respect to needs assessment the amendment specifies the two purposes of the provision. The first purpose is to generate data on which to base decisions concerning the designation of program participants. The second purpose is to generate data on which to base program design decisions, including the establishment of program objectives. The amendment pertaining to coordination specifies that school districts are expected to (a) avoid using Title I funds for services that could be provided from other sources and (b) consider suggestions and offers of assistance made by other concerned agencies.

Relationship Between the Supplanting Provision and State Compensatory Education and Other Special Programs

The major aspects of OE's policy respecting the supplanting provision clarified by the bill are as follows. OE policies respecting state compensatory education funds ensure that educationally deprived children

residing in poor areas receive their fair share. This standard is different than that used with respect to regular State and local funds which is that children participating in the program must receive their fair share of State and local funds. The focus on educationally deprived children adds significant flexibility to LEAs with respect to the number of children who can be served. Instead of requiring a particular child participating in Title I to receive regular State and local funds, SCE and Title I funds, the focus on educationally deprived enables the LEA to use SCE funds for children eligible for but not receiving Title I as well as for children qualifying for SCE funds residing in areas ineligible for assistance under Title I. Although the different standard is used, the existing statute does not recognize the difference, i.e., the statute reads "children participating in programs . . .". In short, this amendment codifies existing OE policy which is designed to effectuate Congressional intent of encouraging the development and expansion of state compensatory education programs.

State Administrative Functions Such as Rule Making, Technical Assistance, Monitoring, Withholding and Auditing

The bill codifies long standing OE policies respecting the nature and scope of responsibilities state educational agencies are expected to perform under Title I. With respect to rule making, the bill provides that states may issue their own rules not inconsistent with federal policy. The bill clarifies the purpose of technical assistance as extending to all areas of program administration, rather than relating solely to evaluation. The provision in the bill pertaining to monitoring generally provides that each state must establish standards for monitoring programs, consistent with minimum standards of established by the Commissioner, including the frequency of on-site visits and methods for reporting, responding to and correcting problems uncovered during monitoring visits.

With respect to SEA withholding, the amendment expressly provides that the SEA must withhold Title I funds once it finds, after reasonable notice and an opportunity for a hearing, that an applicant has failed to comply substantially with any program requirement. The bill also includes a new enforcement provision which would authorize an SEA to enter into a "compliance agreement" in lieu of withholding. This addition is described infra, under the section describing amendments adding flexibility.

Finally, the bill includes the following provisions respecting SEA auditing: (a) the state must make provision for the fiscal and compliance auditing of programs, (b) audits may be carried out by the SEA or other state agency, LEA, or independent auditor under contract with the state or LEA, (c) the SEA must establish written audit resolution procedures, (d) the SEA must ensure that misspent funds are repaid from non-Federal sources, (e) SEA procedures must provide for a right of appeal to the Commissioner, (f) the SEA must notify the Commissioner which applicants have refused to repay misspent funds and (g) the Commissioner must initiate collection action.

Auditing by HEW

The bill includes sections which clarify HEW's legal authoriy and responsiblility to audit application programs. In addition, the bill specifies certain minimum standards concerning the resolution of outstanding audits. First, the Commissioner is required to adopt procedures to assure timely resolution of audits including timetables and an audit appeals process. Second, the amendment specifies that misspent funds must be repaid from funds derived from non-Federal funds or federal funds other than Title I so that the intended beneficiaries of Title I are not punished for the violations of their trustees.

Withholding by the Commissioner

The bill incorporates into the Title I statute the authority to suspend

Title I payments pending a hearing. Such authority is presently contained in the General Education Provisions Act withholding provision. The bill also authorizes the Commissioner to enter into a compliance agreement in lieu of withholding. This concept is described infra.

SYSTEMATIC DISTRIBUTION OF TITLE I FUNDS

The bill requires that applicant agencies devise a systematic method for distribution Title I funds so that similarly disadvantaged children receive, at a minimum, their fair share of Title I funds. The amendment permits school districts to distribute Title I funds based on concentrations of children from low-income families or on the incidence of educational deprivation.

AMENDMENTS ADDING FLEXIBILITY

In General

NIE contractors concluded that the existing Title I legal framework generally provides LEAs with sufficient flexibility to design innovative programs for educationally deprived children. Nevertheless, there were certain limited circumstances under which NIE contractors found that the existing statute was too restrictive. The amendments described below address these findings.

Schools Having High Concentrations of Educationally Deprived Children

The bill includes an amendment which permits schools having 80 percent or higher concentrations of educationally deprived children to utilize Title I funds to design a single Title I program for all children in the school, provided that the school district satisfies certain conditions. First, to

ensure that programs in highly concentrated schools are of sufficient size, scope, and qualify, the amendment provides that the school district must (a) allocate Title I funds, at a minimum, in an amount equal to the per pupil amount allocated to Title I children in schools which are not highly concentrated and (b) contribute state or local supplementary funds in an amount, per child who is not educationally deprived, equal to the amount provided per educationally deprived child attending the highly concentrated school. Second, to ensure that the school district does not neglect the needs of the children who are in greatest need of assistance, the highly concentrated school must develop a school plan, which specifies, among other things, the steps it plans on taking for meeting the needs of the children who are furthest behind.

Exemption From the Supplanting Provision

The amendment creates a limited exemption from the "supplement, not supplant" requirement, where the amount of State or local compensatory education funds (satisfying the conditions for an exemption from the excess costs and comparability provisions) used in areas eligible for assistance under Title I when added to the amount of Title I funds provided to the local educational agency equals or is greater than the amount of Title I funds a local educational agency would have received that year had Title I been fully funded. Under this limited circumstance, the local educational agency may use additional state compensatory education funds exclusively in non-Title I areas until those areas are brought up to the same level of total compensatory education funding (state and federal) provided, per program participant in the Title I areas. After the non-Title I areas are brought up to this level, the "supplement, not supplant" requirement is fully applicable to the distribution of any additional state compensatory education funds.

The purpose of the amendment is to provide state and local educational agencies with an incentive to increase their level of state and local compensatory education expenditures.

Study of Alternative Criteria For Demonstrating Comparability

The bill authorizes the Commissioner to waive existing criteria for demonstrating comparability for all the school districts in one state and a limited number of school districts in other states for the purpose of analyzing the feasibility and desirability of (a) modifying the existing criteria set forth in OE regulations for demonstrating comparability and (b) modifying the reliance on the non-Title I average as the standard of comparison for demonstrating comparability. Absent such an amendment, such a study would be prohibited by Section 431 of the General Education Provisions Act (pertaining to rule making).

Exemption From Record-Keeping Requirement For State or Local Programs Identical to Title I

This amendment provides that a local educational agency which uses Title I and State and local compensatory education funds to design and implement a single compensatory education program which satisfies all Title I requirements, need not separately account for the Federal, State and local funds. Should expenditures of combined funds ever be found to violate Title I legal requirements, the Commissioner should seek to recover the proportionate federal share of the misspent funds.

Compliance Agreements

The bill provides State educational agencies and the Commissioner with discretion to suspend the initiation or continuation of a withholding action by entering into as compliance agreement with an application who has

allegedly failed to comply substantially with any program requirement. The bill also provides that the compliance agreement must be sent, as a matter of course, to the appropriate district parent advisory council.

Exemption From Comparability For State Phase-In Programs

This amendment provides an exemption from the comparability and excess costs provision for State programs which are being phased into full operation by a date certain. The exemption is identical to that presently provided for certain special State and local programs, e.g., State and local compensatory education programs. The amendment specifies ten conditions which must be complied with in order for the Commissioner to certify the program's eligibility for the exemption. The major conditions are that the program is authorized and governed by State law, the purpose of the program is to provide for the comprehensive and systematic and restructuring of the total educational environment at the level of the individual school, and "existing programs" are phased into Title I areas within three years and "new" programs are phased in within six years.

PRE-EXPENDITURE CONTROL

In General

A recent HEW study observed that "since SEAs submit only assurances in Title I, there is no application review in the normal sense of the word. Therefore, pre-expenditure control is limited at the Federal level." An NIE contractor found that pre-expenditure control mechanisms are inadequate at the State level, i.e., the state application approval provisions are inadequate.

Improving pre-expenditure control mechanisms are critical because they enable

the overseer to uncover problems of compliance before the program commences rather than afterwards, when the primary available option is the recoupment of funds after a time-consuming audit process.

SEA Application Approval

This amendment clarifies the interrelationship between the State educational agency's function of approving applications and other State administrative functions performed under this title, e.g., monitoring, auditing, complaint resolution, and enforcement. The amendment requires that, in addition to reviewing the LEA's applications, the State educational agency must review and take into consideration, pertinent Federal and State audits and program review reports and administrative complaints and evaluations.

Certification of Programs Satisfying Criteria For Exemption From the Excess Costs and Comparability Provisions

This amendment requires that advance determinations be made by the Commissioner or State Educational Agency that special state or local programs, as legislated, satisfy the requirements for an exemption from the excess costs and comparability provisions. In addition, the amendment requires that the State educational agency monitor local educational agencies to ensure that such programs are being implemented in accordance with the applicable State or local requirements. It is expected that this pre-expenditure certification procedure will reduce the number of audit findings concerning this issue.

Annual State Management Summary

Under existing law, a state application to OE consists of a series of assurances. The bill provides that a State application must also include a state management summary which includes, among other things, a report in

summary form, of state administrative activity in the past year, a projection of activity for the coming year, and a copy of state rules, regulations and applicable forms. Closer scrutiny of state applications prior to approval will enable the Commissioner to reduce the number of instances in which the Commissioner must later initiate proceedings to recover misspent funds. Further, the management summary will provide information whcih states may use for systematizing their administrative procedures.

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